

App. No. 10/044,294
Amendment Dated: July 11, 2005
Reply to Office Action of May 10, 2005

REMARKS/ARGUMENTS

Claims 1, 40-42 and 44-61 remain in this application for further review. Claims 2-39 were previously withdrawn and claim 43 was previously canceled. Applicants believe claims 1, 40-42 and 44-61 are allowable as more fully stated below.

On June 14, 2005, applicants' attorney held and interview with Examiner Nguyen. During that interview, applicants believe that an agreement was reached that the claims, as amended, overcome the cited references. Examiner Nguyen also requested that applicants set forth an example of supporting language from the specification. Applicants believe that the amendments to the claims do not constitute new subject matter. As one example of support from the specification, the specification recites as follows:

"As previously mentioned, and shown in FIGURE 1[,] the disclosed communication system has three main operating modes. These are the...broadcast mode ("broadcast") 109, the localcast mode ("localcast") 111, and the Peer-to-Peer mode 117." *Specification*, at page 18, lines 10-12.

As another example of support from the specification, the specification recites as follows:

"Data is transmitted and received in the communication system on two types of channel[s]: A broadcast channel (i.e., in broadcast mode) (See FIGURE 1, 109) and a local channel (i.e., in localcast mode) (See FIGURE 1, 111).... The two channels have different on-air formats, and may contain differing data, and have similar structures in one embodiment, and different structures in an alternate embodiment." *Specification*, at page 16, lines 9-15.

The above examples are not meant to be limiting in any manner. The above examples are for explanatory purposes only. The language of the claims distinguishes the cited references as written and the above sections of the specification should not be read into the claims in any manner.

App. No. 10/044,294
Amendment Dated: July 11, 2005
Reply to Office Action of May 10, 2005

I. Rejection of claims 1 and 40 under 35 U.S.C. 102(b).

Claims 1 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,060,996 issued to Kaiser et al. ("Kaiser"). Even though applicants believe that claims 1 and 40 are clearly allowable over Kaiser, applicants have amended the claims as set forth above to further clarify the claims and expedite allowance. Claim 1 includes the following combination of elements that are not taught or otherwise rendered obvious by the cited references:

"a broadcast transmitter configured to transmit broadcast information by employing wide-area FM subcarrier broadcasting on a predetermined schedule" (emphasis added).

"a localcast transmitter configured to transmit local information by employing direct FM modulation over a local link, wherein the local area is smaller than the wide area, wherein the local information is different than the broadcast information" (emphasis added).

"a peer-to-peer transmitter configured to transmit peer information by employing FM modulation over a bi-directional link" (emphasis added).

"a mobile device including a receiver and a transmitter, the receiver and transmitter being configured to communicate with the broadcast transmitter when in a broadcast mode, the localcast transmitter when in a localcast mode and a peer mobile device when in a peer-to-peer mode" (emphasis added).

Claim 40 includes the following combination of elements that are not taught or otherwise rendered obvious by the cited references:

"a broadcast transmitter configured to transmit to a device over a subcarrier channel to a wide area according to a first transmission format" (emphasis added)

"a localcast transmitter coupled to the data source and configured to transmit to a device over a local area and in a locally-unused FM frequency according to a second transmission format, wherein the second transmission format is different than the first transmission format, wherein the device is" (emphasis added)

App. No. 10/044,294
Amendment Dated: July 11, 2005
Reply to Office Action of May 10, 2005

"configured to receive transmitted data from the localcast transmitter and transmit data to the localcast transmitter" (emphasis added)

"further configured to transmit and receive data in a peer-to-peer mode" (emphasis added)

"further configured to receive transmitted data from a wide-area broadcast transmitter" (emphasis added).

The aforementioned limitations of amended claims 1 and 40 are not taught or otherwise suggested by Kaiser. Specifically, Kaiser does not teach the unique combination of the elements recited in claims 1 and 40. Any assertion otherwise would fail to consider Kaiser and the present invention as a whole. Kaiser does not teach a device that is capable of communication with a broadcast transmitter, a localcast transmitter and a peer device. Furthermore, Kaiser fails to teach a device that includes a broadcast mode, a localcast mode and a peer-to-peer mode. Kaiser also fails to teach a device that uses locally-unused FM frequency when communicating in a localcast mode and a peer-to-peer mode. Moreover, Kaiser fails to teach local information and broadcast information where the local information is different than the broadcast information. Also, Kaiser fails to teach a first and second transmission format. Accordingly, applicants assert that the combination of elements in claims 1 and 40, clearly distinguish Kaiser and therefore, are not anticipated by the same. As is more fully set forth below, applicants assert that claims 1 and 40 are not rendered obvious by any of the cited references.

IX. Rejection of Claims 41 and 42 under 35 U.S.C. 103(a)

Claims 41 and 42 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kaiser in view of U.S. Patent No. 5,903,618 issued to Miyaki et al. ("Miyaki"). Applicants

App. No. 10/044,294
Amendment Dated: July 11, 2005
Reply to Office Action of May 10, 2005

respectfully disagree with the rejection. There is no suggestion in either of the references that they may be modified in the manner suggested. Furthermore, even if for argument purposes such modifications were possible, the proposed combination would still fail to teach several of the limitations of the claims. Claims 41 and 42 have been amended as set forth above to include a unique combination of elements that is not taught or otherwise suggested by the cited references. Claim 41 includes the following elements that are not taught or suggested by the prior art:

*"a device configured to receive data when in a **broadcast mode** and configured to receive and transmit data when in one of: **a localcast mode and a peer-to-peer mode**"* (emphasis added)

*"a broadcast transmitter configured to transmit to the device over a subcarrier channel to a wide area when the device is in a broadcast mode **according to a first transmission format**"* (emphasis added)

*"a localcast transmitter coupled to the data source and configured to transmit to and receive data from the device over a local area and in a locally-unused FM frequency when the device is in a localcast mode **according to a second transmission format, wherein the second transmission format is different than the first transmission format**, wherein the device is configured to receive the data from the localcast transmitter and to transmit other data to the localcast transmitter"* (emphasis added)

"a peer device configured to communicate with the device over a local area and in a locally-unused FM frequency when the device is in a peer-to-peer mode" (emphasis added)

Claim 42 includes the following elements that are not taught or suggested by the prior art:

*"a device configured to receive a wireless communication transmitted in a **broadcast mode**, wherein the broadcast mode includes data transmitted and received over an FM subcarrier channel in **a first transmission format**, the device being further configured to transmit and receive additional wireless communications transmitted in a **localcast mode and a peer-to-peer mode in a second transmission format, wherein the second transmission format is different than the first transmission format**, wherein the localcast mode and the*

App. No. 10/044,294
Amendment Dated: July 11, 2005
Reply to Office Action of May 10, 2005

peer-to-peer mode include data transmitted and received over a locally-unused FM channel" (emphasis added).

A previously stated Kaiser pertains to transceiver for a vehicle that provides communication for a pager. Miyake teaches a network that provides for peer-to-peer communication. However, neither Kaiser nor Miyake teach or otherwise suggest the combination of a broadcast mode, a localcast mode and a peer-to-peer mode. Moreover, neither of the references suggest the combination of a first and second transmission format where the second transmission format is different than the first transmission format. Accordingly, applicants assert that the combination of elements in claims 41 and 42 are allowable over the cited references.

III. Rejection of Claims 44-49 under 35 U.S.C. 103(a).

Claims 44-60 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kaiser in view of U.S. Patent No. 5,757,782 ("Gaskill"). Applicants respectfully disagree with the rejection. There is no suggestion in either of the references that they may be modified in the manner suggested. Furthermore, even if for argument purposes such modifications were possible, the proposed combination would still fail to teach several of the limitations of the claims. Also, the 35 U.S.C. 103(a) rejection depends from the 35 U.S.C. 102(b) rejection above. Claims 1 and 40-42 are clearly allowable under 35 U.S.C. 102(b) as more fully set forth above. Accordingly, applicants believe that the 35 U.S.C. 103(a) rejection should be withdrawn for at least the same reasons set forth above.

App. No. 10/044,294
Amendment Dated: July 11, 2005
Reply to Office Action of May 10, 2005

IV. Rejection of Claims 50-61 under 35 U.S.C. 103(a)

Claims 50-61 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kaiser in view of Miyaki and further in view of Gaskill. Applicants respectfully disagree with the rejection. There is no suggestion in either of the references that they may be modified in the manner suggested. Furthermore, even if for argument purposes such modifications were possible, the proposed combination would still fail to teach several of the limitations of the claims. With regard to claims 50-60, the 35 U.S.C. 103(a) rejection depends from the previously stated 35 U.S.C. 103(a) rejection above. Claim 42 are clearly allowable under 35 U.S.C. 103(a) as more fully set forth above. Accordingly, applicants believe that the 35 U.S.C. 103(a) rejection of claims 50-60 should be withdrawn for at least the same reasons set forth above.

Regarding independent claim 61, claim 61 was previously added by amendment in accordance with previous suggestions by the Examiner with regard to allowable subject matter. However, claim 61 has been rejected in the current Office Action. Even though applicants believe that claim 61 distinguishes the prior art, claim 61 has been amended as set forth above to further clarify the claim. Claim 61 includes the following unique combination of elements that are not taught or otherwise suggested by the cited references:

"a device configured to receive a wireless communication transmitted in a *broadcast mode*, wherein the broadcast mode includes data transmitted and received over an FM subcarrier channel in a *first transmission format*, the device being further configured to transmit and receive additional wireless communications transmitted in a *localcast mode* in a *second transmission format*, wherein the *second transmission format* is different than the *first transmission format*, wherein the localcast mode includes data transmitted and received over a locally-unused FM channel, the device being further configured to transmit and receive communications transmitted in a *peer-to-peer mode*, wherein the device configured to receive a wireless communication further comprises..." (emphasis added).

App. No. 10/044,294
Amendment Dated: July 11, 2005
Reply to Office Action of May 10, 2005

For the same reasons set forth above, applicants assert that neither of the cited references teach or otherwise suggest all the limitations of independent claim 61. Accordingly, applicants assert that claim 61 is not rendered obvious by the cited references.

IV. Request For Reconsideration

In view of the foregoing, all pending claims are believed to be allowable and the application is in condition for allowance. Therefore, a Notice of Allowance is respectfully requested. Should the Examiner have any further issues regarding this application, the Examiner is requested to contact the undersigned attorney for the applicant at the telephone number provided below.

Respectfully submitted,

MERCHANT & GOULD P.C.

Ryan T. Grace
Registration No. 52,956
Direct Dial: 206.342.6258

MERCHANT & GOULD P.C.
P. O. Box 2903
Minneapolis, Minnesota 55402-0903
206.342.6200

27488
PATENT TRADEMARK OFFICE